



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

15 West Yakima Avenue, Suite 200 • Yakima, Washington 98902-3452 • (509) 575-2490

September 26, 2006

Richard Burrows
Teanaway Tracts Recreational Association
23418 100th Ave SE (F104)
Kent, WA 98031-3232

Dear Mr. Burrows:

RE: Water Right Change Application No. CS4-02486CTCL (KITT-05-10)

The Department of Ecology is in receipt of the Records of Decision, Reports of Examination, all comments, protests, objections and other relevant information submitted by the Kittitas County Conservancy Board for the above-referenced applications for change on September 22, 2006. Accordingly, the 45-day statutory review period for Ecology will end on November 06, 2006.

If you have any questions or concerns on the above information, please call me at the Department of Ecology at (509) 454-4259.

Sincerely,

Melissa Downes, L.H.G.
Water Resources Program

MMD:gh
060933

cc: Chery Varnum, Kittitas County Water Conservancy Board
Paul Dempsey, Attorney





Kittitas County
WATER CONSERVANCY BOARD
Application for Change/Transfer
Record of Decision

For Ecology Use Only	
Received:	Date Stamp
Reviewed by:	Date Reviewed:

Applicant: Teanaway Tract and Recreational Association Application Number: KITT-05-10

This record of decision was made by a majority of the board at an open public meeting of the Kittitas County Water Conservancy Board held on September 19, 2006.

☒ **Approval:** The Kittitas County Water Conservancy Board hereby **grants** conditional approval for the water right transfer described and conditioned within the report of examination on September 19, 2006 and submits this record of decision and report of examination to the Department of Ecology for final review.

☐ **Denial:** The (board name) Water Conservancy Board hereby **denies** conditional approval for the water right transfer as described within the report of examination on _____ (date report of exam was signed) and submits this record of decision to the Department of Ecology for final review.

Signed:

Pat Deneen, Chair
Kittitas County Water Conservancy Board

Date: 9-19-06 _____
Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Mary Burke, Member
Kittitas County Water Conservancy Board

Date: _____
Approve ☐
Deny ☐
Abstain ☐
Recuse ☒
Other ☐

Gregg Hall, Member
Kittitas County Water Conservancy Board

Date: 9-19-06 _____
Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Dennis Kelly, Alternate
Kittitas County Water Conservancy Board

Date: 9-19-06 _____
Approve ☒
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

, Alternate
Kittitas County Water Conservancy Board

Date: _____
Approve ☐
Deny ☐
Abstain ☐
Recuse ☐
Other ☐

Mailed to the Department of Ecology Yakima Regional Office of Ecology 9-21-06.

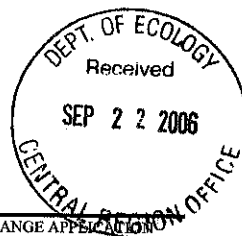
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KITTITAS COUNTY
WATER CONSERVANCY BOARD
Application for Change/Transfer
OF A RIGHT TO THE BENEFICIAL USE OF THE PUBLIC WATERS OF
THE STATE OF WASHINGTON

Report of Examination



☒ Surface Water ☐ Ground Water

DATE APPLICATION RECEIVED September 18, 2005	WATER RIGHT DOCUMENT NUMBER (i.e., claim, permit, certificate, etc.) CL 02486	WATER RIGHT PRIORITY DATE June 30, 1890	BOARD-ASSIGNED CHANGE APPLICATION NUMBER KITT-05-1
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NAME Teanaway Tract Recreational Association			
ADDRESS (STREET) 23418-100 th Ave. SE, F-104	(CITY) Kent	(STATE) WA	(ZIP CODE) 98031

Changes Proposed: Change purpose ☒ Add purpose ☐ Add irrigated acres ☒ Change point of diversion/withdrawal
☒ Add point of diversion/withdrawal ☒ Change place of use ☐ Other (Temporary, Trust, Interties, etc.)

SEPA

The Board has reviewed the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is: ☒ Exempt ☐ Not exempt

BACKGROUND AND DECISION SUMMARY

Existing Right (Tentative Determination)

MAXIMUM CUB FT/ SECOND 0.06 cfs*	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 17.12*	TYPE OF USE, PERIOD OF USE Irrigation of 3.17 acres* and Stock water/ May 1 thru Sept. 15.				
SOURCE Middle Fork Teanaway River			TRIBUTARY OF (IF SURFACE WATER) Teanaway River				
AT A POINT LOCATED: PARCEL NO.	¼ SE	¼ SE	SECTION 26**	TOWNSHIP N. 21	RANGE 15	WRIA	COUNTY. Kittitas
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS USED							
* When this Application was previously before the Board, the subject water right was appurtenant to two adjoining parcels under an aggregate seven-acre irrigation right, with instantaneous and annual quantities of 0.14 cfs. 37.8 acre-feet, respectively. <i>Acquavella</i> Court Claim No. 02486. Recently, the <i>Acquavella</i> Court approved a division of the water right and apportioned specified quantities to each of the two parcels, including the above-described 0.06 cfs, 17.12 acre-feet right for irrigation of 3.17 acres on Lot 11 of Logan's Acres, lying within the East ½ Northwest ¼ Section 36, Township 21 North, Range 14 E.W.M. (Kittitas County Tax Parcel 21-15-36050-0011). Applicant proposes to change and transfer only a portion of this newly-divided right, the portion not transferred herein shall remain appurtenant to said Tax Parcel 21-15-36050-0011 for the existing irrigation and stock water purposes of use.							
** The adjudicated POD in <i>Acquavella</i> is the SE ¼ SE ¼ Section 26; however, based upon on-site inspection by Applicant and its consultant, the actual POD appears to be located a very short distance to the southeast along the course of the Middle Fork Teanaway, being within the NW ¼ NW ¼ Section 36. This discrepancy is not surprising, given the <i>Acquavella</i> court's acknowledgment that historical flooding and similar conditions have necessitated minor POD changes in this reach of the Teanaway. Referee's Report at pp.7-8.							
PARCEL NO. 21-15-36050-0011	¼ E ½	¼ NW	SECTION 36	TOWNSHIP N. 21 N.	RANGE, 15 E.		

Proposed Use

MAXIMUM CUB FT/ SECOND See attached Exhibit A	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR See Attached Exhibit A	TYPE OF USE, PERIOD OF USE Domestic/ Continuous				
SOURCE			TRIBUTARY OF (IF SURFACE WATER)				
AT A POINT LOCATED: PARCEL NO. See attached Exhibit B	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED							
See attached Exhibit B for ¼ ¼ section and parcel number information for each proposed new place of use.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,		

Board’s Decision on the Application

MAXIMUM CUB FT/ SECOND 0.013***	MAXIMUM GAL/MINUTE	MAXIMUM ACRE-FT/YR 3.48	TYPE OF USE, PERIOD OF USE Domestic/ Continuous				
SOURCE See attached Exhibit C			TRIBUTARY OF (IF SURFACE WATER) North Fork Teanaway				
AT POINTS LOCATED: PARCEL NOS. See attached Exhibit C	¼	¼	SECTION	TOWNSHIP N.	RANGE	WRIA	COUNTY.
LEGAL DESCRIPTION OF PROPERTY ON WHICH WATER IS TO BE USED AS APPROVED BY THE BOARD See attached Exhibit C for ¼ ¼ section and parcel number information for each proposed new point of diversion.							
*** 0.013 cfs and 3.48 acre feet are the maximum instantaneous and annual quantities approved for transfer. The remaining 0.047 cfs and 13.64 acre feet under the recently divided water right shall remain appurtenant to the existing place of use for the existing purposes of use.							
PARCEL NO.	¼	¼	SECTION	TOWNSHIP N.	RANGE,		

DESCRIPTION OF PROPOSED WORKS

Applicant intends to continue the use of the existing small diameter piped gravity flow water systems and springs that have been in place for many years to deliver transferred water to cabins at the proposed places of use designated in attached Exhibit. There are 6 diversion points along unnamed intermittent stream beds and 2 diversion points involving springs. The diversions are shown on the map attached as Exhibit D. Diversions A, B, C, E, F and H consist of iron and plastic pipe run from small gathering points in 5 intermittent stream beds to the places of use for cabins 1-9 and 11. Diversion D is a spring which runs by gravity in plastic pipe and is an adjunct domestic supply for cabin 5. Diversion G is a spring which is the water source for cabin 10. There is no pipe system. Water is carried from the spring in a bucket into the cabin for domestic use.

DEVELOPMENT SCHEDULE

BEGIN PROJECT BY THIS DATE: Existing system. No further development planned.	COMPLETE PROJECT BY THIS DATE: April 15, 2007	COMPLETE CHANGE AND PUT WATER TO FULL USE BY THIS DATE: May 1, 2007
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REPORT

BACKGROUND [See WAC 173-153-130(6)(a)]

On September 18, 2005, the Teanaway Tract Recreational Association through Richard Burrows of Kent, Washington, filed an application for change of purpose/time of use, place of use and points of diversion under Washington Water Right Claim No. 02486. The application was accepted at an open public meeting on October 18, 2005, and the Board assigned application number KITT 05-10. The surface water right proposed for transfer was originally recommended by the *Acquavella* Referee pursuant to the Supplemental Report of Referee Re: Subbasin No. 3, Second Supplemental Report of Referee Re: Subbasin No. 3 and subsequently confirmed by the Court pursuant to its February 8, 2001, Conditional Final Order (“CFO”) for Subbasin No. 3 (Teanaway River). See attached Exhibit E. During the pendency of this Application, said surface water right was divided, the relevant portion of which for purposes of this Application is now appurtenant to the Wilgus parcel, as described in *History of water use*, below. See attached Exhibit F, September 14, 2006, Order Granting Motion to Divide Water Right.

Attributes of the water right as currently documented

Name on certificate, claim, permit: Orene L. Ward

Water right document number: Surface Water Right Court Claim No. 02486

As modified by certificate of change number: N/A

Priority date, first use: June 30, 1890

Water quantities: Q(i) 0.14 cfs**** Q(a) 37.8 acre ft./ year****

Source: Middle Fork Teanaway River

Point of diversion/withdrawal: 1,200’ north and 800’west from the southeast

Corner of Section 26, being within the SE1/4SE1/4 of Section 26, T. 21 N., R. 15 E.W.M.

Purpose of use: Irrigation of 7 acres**** and stock water (May 1-September 15).

Period of use: May 1 through September 15

Place of use: 7 acres within Lots 1 and 11 of the plat of Logan’s Acres, being within that portion of the E1/2NW1/4 of Section 36, T. 21 N., R. 15 E.W.M. lying southwest of the Middle Fork Teanaway Road.****

Existing provisions: None

**** As noted herein, the aggregate seven-acre irrigation right under Court Claim No. 02486 was recently divided, the result being that the relevant portion of said right for purposes of this Application is 0.06 cfs, 17.12 acre-feet per year for irrigation of 3.17 acres and stock water within Lot 11.

Tentative determination of the water right

The tentative determination is provided on the front page of this report.

History of water use

In 1995 Claimant Ward conveyed a 3.48 acre portion of the subject property and appurtenant water rights (a portion of which are proposed for transfer herein) to Michael Wilgus (dec’d.), pursuant to a real estate installment contract subsequently assumed by Kenneth “Rick” Wilgus, pursuant to Auditor’ File No. 199806020004. See attached Exhibit G. Mr. Wilgus was joined with Ward as an additional party defendant by the *Acquavella* Court on April 7, 2005. In 2004 Mr. Wilgus entered into an agreement

in principal to convey to Applicant title and exclusive interest in the portion of the Ward water right appurtenant to Lot 11. On July 13, 2006, the parties entered into a formal agreement providing terms for conveyance of such right. See attached Exhibit H.

In connection with the Board's February 2006 hearing on this Application, aerial photographs evidencing beneficial water use on the subject property during the 2000, 2001, 2003 and 2004 irrigation seasons were reviewed. Additionally, at the Board's September 2006 hearing, a declaration and videotape evidence showing sprinkler irrigation on Lot 11 during the 2005 irrigation season were considered. In totality of evidence confirmed to the Board's satisfaction that there has not been any consecutive five-year period either spanning or following entry of the 2001 Subbasin 3 CFO during which time Mr. Wilgus has failed to divert and beneficially use the portion of the Ward water right appurtenant to Lot 11.

Previous changes

N/A

SEPA

The Board has reviewed the proposed project in its entirety, as well as the provisions of the State Environmental Policy Act of 1971, Chapter 43.21C RCW and the SEPA rules, chapter 197-11 WAC and has determined the application is categorically exempt from SEPA.

Other

Approval by the Board and Ecology of the water right changes proposed by Applicant is a condition of sale by Wilgus to Applicant.

COMMENT AND PROTESTS [See WAC 173-153-130(6)(b)]

Public notice of the Application was originally given in the Kittitas Daily Record on October 28, 2005, and November 4, 2005. At the Department of Ecology's request and in advance of the Board's September 2006 hearing on this Application, a revised public notice was given in the Kittitas Daily Record on August 1, 2006, and August 8, 2006. The Board notified relevant agencies of the application and the agency notification checklist is also part of this record. The affidavits of publication are part of the administrative record herein. The protest period for the September 2006 hearing ended on September 7, 2006.

There were no protests received during the 30 day protest period. In addition, no oral and written comments were received at an open public meeting of the Board or other means as designated by the Board.

Date: N/A

This was recognized by the Board as a Protest Comment

Name/address of protestor/commenter: N/A

Issue: N/A

Board's analysis: N/A

Other

N/A

INVESTIGATION [See WAC 173-153-130(6)(c)]

The following information was obtained from a site inspection conducted by Board Member Dennis Kelly on November 11, 2005, technical reports, research of Ecology records (including the Water Rights Tracking System ("WRTS") report detailing other water rights and applications therefor within the vicinity of the current and proposed points of diversion), as well as conversations with the Applicant, seller Kenneth Wilgus and water rights transfer participant, Elmore Ferris. Additionally the Board considered hydro-geological analyses and testimony from Applicant's consultant, as well as other documentary and video evidence presented at the February 21, 2006, and September 19, 2006, meetings of the Board. The site visit was officially reported at the November 15, 2005, hearing.

Proposed project plans and specifications

The proposed change contemplates moving .013 cfs, 3.48 acre-feet of water from the current diversion and places of use on the Middle Fork Teanaway River to new diversions and places of use on the upper portion of the North Fork Teanaway River. The Applicant, however, has purchased the entire Ward/Wilgus right appurtenant to the current place of use – a 3.48 acre parcel. As such, Applicant will, for the time being, continue to irrigate the current place of use with the remaining 13.64 acre-feet of water not transferred herein and/or will consider a temporary or permanent transfer of some or all of this 13.64 acre-feet quantity to a third-party buyer/lessee or to Ecology's Trust program.

The proposed use for the transferred water is year-round domestic only, and consists of 10 connections from 7 water diversions and an additional non-piped diversion from a spring in which water for domestic use is carried by bucket into a cabin. There is no agriculture involved. There is no construction required to facilitate the proposed change. Existing small diameter pipe will continue to be used. The small amount of water involved will be largely non-consumptive. As a result, the proposed water transfer will increase instream flows in the Middle Fork, lower West Fork and lower Teanaway River during the irrigation season and continue *de minimus* reductions in flows in the North Fork and mainstem Teanaway River during non-irrigation season months. (See Impairment, below.) Additionally, the proposed transfer will not enlarge the existing water right, but rather will result in a small net gain to the Teanaway River and Yakima River as a consequence of transferring a portion of the Ward/Wilgus

right to a substantially less consumptive domestic use., as more fully described in the Geology and Hydrology Report of Mr. S. J. "Jim" Milton, P.E. of Water Resources Management.

The Board's review of all available information also indicates that the proposed transfer will not impair others' water rights, pending applications regarding water rights, or instream flows, as stated above. Based on the Board's review of information regarding other surface water rights and applications in the vicinity of the proposed transfer area, the Board does not foresee any adverse impact on any existing water rights or applications resulting from this change. See details below under Conclusions.

Other water rights appurtenant to the property (if applicable)

The transfer of the 3.48 ac. ft. of surface water rights from the Middle Fork Teanaway reduces the remaining non-transferred portion of the Ward/Wilgus Middle Fork Teanaway right by that same amount.

Public Interest (groundwater only)

There is no requested change to, from or between groundwater sources in this instance. See general discussion regarding public interest issues under Conclusions, below.

Tentative Determination

In order to make a water right change decision, the Board must make a tentative determination on the validity and extent of the right. The Board has made the tentative determination as displayed upon the first page of this report. There are several circumstances that can cause the Board's tentative determination to differ from the stated extent of the water right within water right documentation. Water right documents attempt to define a maximum limitation to a water right, rather than the actual extent to which a water right has been developed and maintained through historic beneficial use. Additionally, except for a sufficient cause pursuant to RCW 90.14.140, water rights, in whole or in part, not put to a beneficial use for five consecutive years since 1967 may be subject to relinquishment under Chapter 90.14.130 through 90.14.180 RCW. Water rights may additionally be lost through abandonment.

The Board's tentative determination was based upon the following findings: The current owner of the herein-described water right has not abandoned or relinquished any part of said right. The record demonstrates that Mr. Wilgus has diverted and beneficially used the entire portion of the adjudicated Ward right appurtenant to Lot 11 during the relevant period following entry by the *Acquavella* court of the February 8, 2001, Subbasin No. 3 CFO. In reaching this conclusion the Board initially reviewed aerial photography and a Declaration from Mr. Wilgus. Subsequently, in connection with the September 2006 hearing on this Application, the Board considered a Second Declaration from Mr. Wilgus, along with a videotape recorded during the 2005 irrigation season that shows sprinkler irrigation and green pastureland across the entire 3.48 acre parcel, excepting only a few vehicles, homes and outbuildings.

Applicant understands that Ecology may, as a condition of approval of the proposed transfer, require metering at the proposed points of diversion, to the extent feasible; the maximum right ultimately transferable to Applicant will be limited by maximum beneficial use of the current right.

Geologic, Hydrogeologic, or other scientific investigations (if applicable)

In connection with the above-described site inspection, the Board examined relevant geologic and hydrogeologic conditions in the subject area, including the headwaters of both the Middle and North Forks of the Teanaway River, relying in part on Mr. Milton's Report and on USGS and Kittitas County Conservation District flow monitoring, as well as Ecology data and observations. Based upon this investigation and analysis the Board concludes that the present and proposed points of diversion are in "hydraulic continuity," or otherwise all contributory to the Teanaway watershed, as more fully described below.

Mr. Milton's Report also determines that the net annual consumptive use of the 3.48 acre-feet to be transferred for domestic water supply will be substantially less than the consumptive use for the same quantity of water under the currently approved irrigation right. In this instance, Annual Consumptive Quantity ("ACQ") analysis (based on the Washington Irrigation Guide) is required, because Applicant will retain the existing irrigation purpose of use for the non-transferred portion of the right.

Other

The use of water from the unnamed intermittent streams and springs identified in the attached Exhibit C for intermittent domestic/cabin use has been continuous since the 1930's and 1940's. Three of the cabins, (Numbers 1,2 and 3 on the attached Exhibit D) have junior water rights dating from June 28, 1973, (Court Claim No. 00344) and one cabin, (Number 5) has a temporary permit, (No. S4-28854). There are no water rights on the North Fork of the Teanaway River upstream of the cabins, since this area is exclusively National Forest lands up to the source of the Teanaway, and otherwise the area has not been occupied or developed for agricultural or residential purposes.

The cabins are used intermittently. The Forest Service Special Use Permit under which the cabins are permitted does not allow full time occupancy. Eight of the cabins which would utilize water from the proposed water rights transfer have septic systems which need adequate water volume to operate properly in order to meet the requirements of the Department of Health. Based upon an inspection conducted by Applicant's consultant, water use during a winter weekend was limited to use by two persons occupying one cabin for two days and one night, with no evidence of occupation of other cabins during the

preceding week. Based upon recreational use of cabins, the considerable majority of seasonal water use occurs during the existing summer irrigation season.

The Board expressly notes that Applicant could drill up to eleven separate exempt wells under Washington law – one for each individual cabin. In that case, an aggregate (un-permitted) 55,000 gallons per day of groundwater could be withdrawn, to the detriment of the Teanaway watershed and the Basin generally. The transfer requested herein would limit aggregate daily withdrawals to a small fraction of that number and therefore is the preferred approach from the conservation perspective.

CONCLUSIONS [See WAC 173-153-130(6)(d)]

Tentative determination (validity and extent of the right)

The water right proposed for transfer is a valid right for the full instantaneous and annual quantities stated above.

Relinquishment or abandonment concerns

Mr. Wilgus as owner of the relevant portion of the subject water right has not abandoned or relinquished any part of said right appurtenant to Lot 11. The record demonstrates that Mr. Wilgus has diverted and beneficially used his full adjudicated right during the relevant period prior to and/or following entry by the *Acquavella* court of the Subbasin No. 3 CFO.

Hydraulic analysis

The Board, with Mr. Milton's input, determined that the Middle and North Forks of the Teanaway river are in continuity with or sufficiently closely related to the same source of water. The continuity conclusion is supported by the fact that both the Middle Fork and North Fork contribute to the same Teanaway basin. Benefits are derived to instream flows and /or proposed use mitigated for in the proposed transfer of water rights from Middle Fork (less substantial fork for flow) to the North Fork (more substantial fork for flow) of the Teanaway River as shown in the report and documentation of flows by the Kittitas County Conservation District.

Consideration of comments and protests

No protests, objections, claims of impairment or injury, or requests to intervene were filed.

Impairment

The proposed transfer will not impair existing water rights, pending applications or instream flows. Numerous rights exist between the proposed diversion in the upper reaches of the North Fork Teanaway River and the point at which the two forks meet and impacts are neutralized. Mr. Milton's report indicates that he reviewed the *Acquavella* Adjudication Map for the Teanaway, as well as related records. Looking downstream from the proposed POU, all of the subject rights are associated with three PODs that drew directly from the North Fork that could be impacted by the withdrawal of upstream users. Some of these rights are junior to the subject right to be transferred; others are senior. Of course, the Ward/Wilgus right would be subject to regulation before these senior rights in the regular course of Teanaway operations. As described more thoroughly in his report, Mr. Milton concludes that the proposed transfer is the preferred option to supply water to the North Fork Teanaway cabins, given the scarcity of viable alternative water supplies. The proposed transfer will mitigate for the use of domestic water for the 11 recreational cabins. This change will be beneficial to the overall Teanaway basin. Most benefit (1.05 ac-ft) will accrue to the Middle and West Forks with a 3X mitigation factor. Lesser benefit (0.7 ac-ft) will accrue to the mainstem of the Teanaway for a mitigation factor of 2X. The only negative impact (0.35 ac-ft) will be to the North Fork of the Teanaway. Impacts will spread over 12 months of the year on the fork yielding the most water. In connection with this, it is important to note that this *de minimus* impact has existed for the past 60-70 years without complaint from any North Fork rights holders or other Basin stakeholders (including following the statutory public notice of this transfer). With respect to the 0.35 ac-ft annual consumptive use from the North Fork and the restoration of 1.05 ac-ft to the Middle Fork, a net benefit will accrue to the Teanaway River system.

Additionally, Mr. Milton and Applicant's representatives have analyzed potential "regional" implications for the proposed transfer, i.e., the potential impact on Total Water Supply Available ("TWSA"), as that term is used in the *Acquavella* adjudication, and related Basin storage control issues. The specific question is whether, as a consequence of converting a small portion of the seasonal irrigation right to year-round domestic use, reduced recharge from return flows could reduce TWSA in the Basin during the winter. Such seasonal use change could, in theory, require the Bureau of Reclamation to release water from storage in order to meet instream flow targets in the mainstem Yakima River downstream of the Teanaway River. As such, Ecology could ultimately condition the requested change in season of use on Applicant consenting to seasonal mitigation plan to ensure that any *de minimus* wintertime TWSA impacts are sufficiently mitigated. In this instance, however, the Board concludes that the quantity of wintertime consumptive use is so small that the cost of administering such a mitigation plan would outweigh any benefits.

Public Interest

To the extent a "public interest" analysis may be applicable to surface-to-surface water transfers under RCW 90.03.380, the Board concludes that the requested change will not be detrimental to the public interest. The requested change is consistent with public policy objectives of the state to provide for efficient use of water resources, to encourage supply of new or expanding uses through the change or transfer of rights, to provide greater operational control to water managers and to ensure that no impairment of existing rights occurs. In this light, the public interest is served by managing water use through the transfer of water rights to permit or enhance demonstrably useful uses – particularly in basins such as the Yakima where water is not sufficient to meet all such needs in water short years.

Because the proposed change will not increase the existing permitted water use, or increase the volume of water put to beneficial use, or result in a measurable negative impact on other existing water rights or applications therefor, it will not change the existing status quo for water use impacts. As such, impairment is not likely. And water use is provided consistent with statutory requirements for beneficial use.

This action is consistent with the intent of RCW 90.03.380 and other applicable state and local statutes and regulations. This Board's no-impairment finding is consistent with the public interest. All pertinent water rights issues are addressed herein. Finally, Conditions and Limitations, below, are included in order to more fully protect the public interest consistent with state water law.

Other

The Board also considered the previous provisions associated with the water right as identified in the background section of this report when making its decision. The Board concludes that the water right change as proposed is consistent with validity and extent of the Ward/Wilgus water right confirmed in *Acquavella*, subject to the statutory change requirements of RCW 90.03.380.

DECISION [See WAC 173-153-130(6)(e)]

Based on the information and findings described above, the Board conditionally approves the Teanaway Tract Recreational Association's request to permanently change the purpose, place and time of use and point of diversion described in Surface Water Right Claim No. 02486 as confirmed and subsequently divided by the *Acquavella* Court.

PROVISIONS [See WAC 173-153-130(6)(f)]

Conditions and limitations

All conditions, limitations and provisions stated in the *Acquavella* Orders and any other laws, and requirements shall remain in full force and effect. Additionally, Applicant will comply with all of the following specific conditions:

- (1) Transfer of the 3.48 acre-foot right to the upper North Fork Teanaway may not interfere with or impair any existing rights or applications therefor; and
- (2) Applicant will consult with Ecology to determine whether and to what extent approved measuring devices are to be installed and maintained at the new points of diversion, consistent with Requirements for Measuring and Reporting Water Use," Chapter 173-173 WAC, which describes the requirements for data accuracy, device installation and operation and information reporting. It also allows a water user to petition Ecology for modifications to some of the requirements; in this instance, it may be impractical or otherwise not helpful to install separate meters for eight separate diversion points (one of which provides water manually by bucket) for sporadic use by eleven cabins.

Mitigation (if applicable)

There are no affirmative mitigation requirements deemed applicable at this time. However, as described in Mr. Milton's Report, a very sufficient quantity of water is to be transferred for (mostly non-consumptive) domestic purpose of use. As such, the Basin will receive a net benefit. In this light, the transfer approved herein may be considered as mitigation for future domestic uses.

Construction Schedule

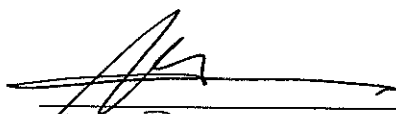
There is no construction involved in this water rights transfer request. Applicant intends to use existing infrastructure at the referenced unnamed streams and springs to put the transferred water to full use by May 1, 2007, including any metering ultimately required by Ecology as provided above.

Other

For additional supplementary information, see the **APPLICATION FOR CHANGE/TRANSFER OF WATER RIGHT** submitted to the Kittitas County Water Conservancy Board on September 19, 2005.

Signed at Ellensburg, Washington

This 19 day of September, 2006.



Chair, Pat Deneen
Kittitas County Water Conservancy Board

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**Melissa Downes, LG
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